

## **Title 2. California Public Employees' Retirement System**

### **NOTICE OF PROPOSED REGULATORY ACTION**

#### **INITIAL STATEMENT OF REASONS**

##### **Amendment of section 599.502 – Change of Enrollment, and Amendment of section 599.506 – Termination of Enrollment**

##### **Description of Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address:**

Pursuant to its authority under the Public Employees' Medical and Hospital Care Act (PEMHCA), Government Code section 22750, *et seq.*, the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) administers health benefits for over 1.2 million enrollees who are employees and annuitants (and their family members) of the State and of those school and public agency employers that have elected to participate in PEMHCA.

Due to on-going increases in health benefit premiums, CalPERS continually examines health plan and fiscal policy issues to ensure the most effective, efficient, and competitive health benefit plan administration.

Government Code section 22830 allows an employee or annuitant, under eligibility rules as prescribed by board regulations, to enroll in a health benefit plan approved or maintained by the board either as an individual or for self and family. Section 22830 also establishes enrollment in a plan as serving to authorize the deduction of the contributions required under PEMHCA from the salary of an employee or allowance of an annuitant.

Government Code section 22842 provides that an employee, annuitant, or family member enrolled in a health benefit plan may request a change in coverage based on a change in the family status of the employee or annuitant by filing an application within 30 days after the occurrence of the change in family status or at other times and according to conditions as may be prescribed by regulations of the board.

Government Code section 22846 also requires board regulations to provide a beginning and ending date of coverage of employees, annuitants, and family members enrolled in a health benefit plan.

Section 599.506 currently establishes specific termination dates for ending coverage of employees and annuitants and family members under specified circumstances and conditions. In the case of family members who become ineligible for coverage, the regulation provides that although a family member's coverage terminates, the employee's or annuitant's enrollment is to continue unchanged until he or she files the paperwork necessary to change his or her enrollment.

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Section 599.506(c)(1) requires health plans to pay to the employer, employee or annuitant, "...any difference between the premium paid between the date of termination of coverage and the effective date of the change in enrollment, and the date of termination of coverage...."

The current requirements of sections 599.502 and 599.506(c)(1), coupled with the fact that employers, employees and annuitants sometimes may wait months or even years before deleting ineligible family members, creates an open-ended liability for CalPERS health plans. To mitigate the risk of this liability, health plans under PEMHCA adjust their rates to offset the potential loss of current premium revenues due to retroactive reimbursements. This increases health care costs under the program.

There are valid, limited business needs for retroactive cancellations and deletions. These include time to reconcile system response and coordination delays as well as time to allow individuals to make appropriate notification of changes to their personal status, (i.e. family member deletion due to death or divorce). However, the employer, employee and annuitant hold an inherent responsibility to act in a timely manner to ensure changes to enrollments are recorded to minimize retroactive changes to enrollments. These amendments will limit reimbursement to employers, employees and annuitants for excess premiums paid for a period of up to six months prior to the date on which the action is processed and recorded.

Under the current regulatory framework, health plans incur the risk of providing an ineligible individual with medical coverage and, at times, have authorized costly services. The health plans are then adversely fiscally impacted by reimbursements to employers and employees or annuitants of premiums owed for retroactive deletions or cancellations. This additional risk and cost impacts health benefit premium rates charged to all employers and members.

The proposed amendment to section 599.502(f)(2) will limit reimbursement of employers, employees and annuitants to a value not to exceed those excess health premiums paid for a period of up to six months when a submitted enrollment transaction results in a retroactive mandatory deletion of a family member or retroactive mandatory cancellation of coverage due to loss of eligibility.

The proposed amendment to section 599.506(c)(1) will limit the liability of health plans contracting with CalPERS to reimburse employers, employees and annuitants to those excess premiums paid for a period of up to six months prior to submission of an enrollment transaction which results in a retroactive deletion or cancellation of coverage.

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The Board has determined that the ability to limit reimbursement of excess premiums is crucial to mitigate risk to its health plans and lower costs. This will assist with health premium cost stabilization and lead to better purchasing power for CalPERS members, while ensuring CalPERS health plans remain competitive with other health care providers.

The amendments to sections 599.502 and 599.506 implement, interpret, and make specific the provisions of Government Code sections 22830 and 22846, respectively.

Specific Purpose: The purpose of amended section 599.502 is to limit reimbursement of employers, employees and annuitants to an amount not to exceed those excess health premiums paid for a period of up to six months when an employer, employee or annuitant submits an enrollment transaction which results in a retroactive mandatory deletion or mandatory cancellation of coverage due to loss of eligibility.

The purpose of amended section 599.506 is to limit the liability of CalPERS health plans to reimburse employers, employees and annuitants for excess premiums for a period of up to six months when an enrollment transaction results in a retroactive mandatory deletion or mandatory cancellation.

Necessity: These actions are necessary to mitigate health plan risk imposed by unlimited recovery of past paid premiums for enrollments which should have been terminated at an earlier date due to mandatory loss of eligibility under PEMHCA. Failure to mitigate this risk leads to increased health plan premiums which are realized as increased health care costs to the employer (both state and local agencies), employee and annuitant.

Technical, Theoretical and/or Empirical Studies, Reports or Documents: Not applicable.

Alternatives to the Regulatory Action and CalPERS' Reasons for Rejecting Those Alternatives: CalPERS has considered alternatives to this proposal, and has determined that there is no more effective way to carry out its purpose that would be less burdensome.

Alternatives to the Regulatory Action that Would Lessen any Adverse Impact on Small Businesses: The proposed action has no cost impact on small businesses. The action only impacts the coordination of health benefits and health premiums for employees, annuitants, and family members of the State and local agencies and school districts.